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**UNITED STATES DEPARTMENT OF COMMERCE**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/602,943      06/26/00      SWANSON

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PM82/0612

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EXAMINER
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LEV, B

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 06/12/01

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
09/602,943

Applicant(s)  
Swanson

Examiner  
Bruce A. Lev

Art Unit  
3634



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Jun 26, 2000
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Jun 26, 2000 is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 20) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 10A and 10B.

Correction is required.

2. Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect can be deferred until the application is allowed by the examiner.

### ***Claim Objections***

3. Claims 1-8 are objected to because of the following informalities:

In claim 1, the phrase "What I claim as my invention is" should be deleted.

### ***Claim Rejections - 35 USC § 112***

4. Claims 1-8, 10, and 18-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regard as the invention.

As concerns claims 1, 10, and 18, there is an inconsistency between the language in the preamble and certain portions in the body of the claims, thereby making the scope of the claims

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unclear. For example, the preamble clearly indicates that the subcombination of a "tree stand" is being claimed. However, the body of the claim positively recites a "tree", e.g., "said mounting base laterally attaches to a tree limb...and/or a tree trunk" (claim 1, line 6); "attaches to any lateral portion of a tree limb...and/or a tree trunk" (claim 10, line 2); which indicates the claims as being drawn to a combination of the "tree stand" and the "tree". Therefore, the applicant is required to clarify what the claims are intended to be drawn to, i.e., either the "tree stand" alone or in combination with the "tree", and to present the claims with the language which is consistent with the invention.

As concerns claim 1, "means for attachment" is vague and indefinite and should read -- means for attaching-- or --attaching means--. Further, "and/or" is vague and indefinite.

As concerns claim 8, "the receiving bracket" lacks antecedent basis and therefore renders the claim as vague and indefinite.

As concerns claims 9 and 18, "attachment means" is vague and indefinite and should read --means for attaching-- or --attaching means--. Further, it is unclear to the examiner how (or to what) the "support member" is attached to the stand.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by McClung 4,069,891.

As concerns claim 1, McClung sets forth a tree stand comprising a mounting base (inclusive of members 11 and 12), having attaching means 27 and 47; a support member 105; a platform 101 attached to the first end of the support member; a seat 106 attached to the second end of the support member; the mounting base laterally attached to a tree; the support member being axially attached to the mounting base (via members inclusive of 60 and 90) and capable of rotating 360 degrees; and stabilizing means (inclusive of member 150) stabilizing the rotational movement of the support member at multiple locations along its 360 degrees.

As concerns claim 2, McClung sets forth the support member attachable to a receiving bracket 91.

As concerns claim 3, McClung sets forth the receiving bracket being axially attached to the mounting base (via members inclusive of 60 and 90).

As concerns claim 4, McClung sets forth the receiving bracket rotating 360 degrees on its axis.

As concerns claims 5 and 6, McClung sets forth the receiving bracket locking into place (via members of 150) along the 360 degrees (inclusive of every 10 degrees).

As concerns claims 7 and 8, McClung sets forth the receiving bracket and support member capable of being viewed as locked in an upright vertical position.

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As concerns claim 9, McClung sets forth a tree stand comprising a mounting base (inclusive of members 11 and 12); attaching means 27 and 47; a support member 105; a platform 101 attached to the first end of the support member; a seat 106 attached to the second end of the support member; and a receiving bracket axially attached to the mounting base (via members inclusive of 60 and 90).

As concerns claim 10, McClung sets forth the mounting base attachable to any portion of a tree.

As concerns claim 11, McClung sets forth the receiving bracket and support member locking into place (via members of 150) along the 360 degrees.

As concerns claim 12, McClung sets forth the support member being attachable to the receiving bracket.

As concerns claims 13-16, McClung sets forth the receiving bracket and support members capable of being viewed as locked in an upright vertical position.

As concerns claim 17, McClung sets forth the seat positionable directly above the platform.

As concerns claim 18, McClung sets forth a tree stand comprising a mounting base (inclusive of members 11 and 12); attaching means 27 and 47; a support member 105; a platform 101 attached to the first end of the support member; a seat 106 attached to the second end of the support member; a receiving bracket axially attached to the mounting base (via members inclusive

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of 60 and 90); and stabilizing means (inclusive of member 150) stabilizing the rotational movement of the support member at multiple locations along its 360 degrees.

As concerns claims 19 and 20, McClung sets forth the receiving bracket and support member capable of being viewed as locked in an upright vertical position.

### *Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following references disclose rotatable tree stands incorporating platforms and seats:

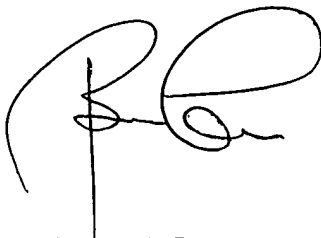
4,150,733	Plummer	182/187
4,730,699	Threlkeld	182/187
5,355,974	Miller	182/187
5,439,074	Trout et al	182/187
5,482,137	McNeill	182/187
5,518,083	Blennert	182/188
5,842,540	Mancini, Jr.	182/136

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruce A. Lev whose telephone number is (703) 308-7470.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2168.

June 8, 2001

A handwritten signature in black ink, appearing to read 'B. Lev', with a large, stylized initial 'B' and a horizontal line extending to the right.

***Bruce A. Lev***

***Patent Examiner***

***Group 3600***